

**ZONING ADMINISTRATOR
NOTICE OF DECISION**

Date: November 29, 2011
Applicant: The Learning Choice Academy
Case No.: PCC-11-063
Address: 881 Kuhn Drive, Suites 105 & 106, Chula Vista, Ca.
A.P.N.: 595-231-08
Project Planner: Jeff Steichen, Associate Planner

Notice is hereby given that on November 23, 2011, the Zoning Administrator considered Conditional Use Permit Application PCC-11-063 filed by The Learning Choice Academy ("Applicant"), within the Eastlake Business Center at 881 Kuhn Drive, Ste 105 & 106, Chula Vista, CA ("Project Site"). The Project Site is located within the BC-2 Land Use District Designation. The site is zoned PC (Planned Community) and has a General Plan designation of Limited Industrial (IL). The Property is owned by 881 Kuhn Drive, LLC ("Property Owner"). The proposed Project is more specifically described below:

The Applicant requests approval of a Conditional Use Permit to operate an educational, counseling and tutoring school within an existing 5,534 square-foot suite, located in a multi-tenant industrial/office building ("Project"). Pursuant to Section IV.1 of the Eastlake II Planned Community District Regulations, education facilities are permitted uses upon approval of a Conditional Use Permit. The suites are presently vacant.

The Development Services Director has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project qualifies for a Class 1 Categorical Exemption pursuant to 15301 (Existing Facilities) of the State CEQA Guidelines. The proposed project consists of negligible or no expansion of an existing use. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030.A of the Chula Vista Municipal Code, has been able to make the Conditional Use Permit findings as required by CVMC Section 19.14.080:

- 1. That the proposed use at this location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community.**

This finding is met because the approval of this project will enable the applicant to use the project site to provide valuable services to the community. There is an existing facility for The Learning Choice Academy located at 861 Harold Place with a current student enrollment of approximately 250 students. While many of these students learn off-site, some have expressed interest in on-site tutoring/classes being made available to them. As the existing facility is unable to accommodate this growing request, it has necessitated the applicant to find an additional facility in order to accommodate both the existing and anticipated increase in enrollment. The new location will provide for on-site classroom instruction for those enrolled students requiring additional instruction.

The five classrooms can accommodate a total of 100 students at any one time. The proposed use at this location is necessary or desirable because the project site is located in a limited industrial/office area that contains similar types of businesses, and there are no residential nor other incompatible land uses nearby that could be adversely affect by project-related activities.

- 2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.**

This finding is met because a condition of approval has been included in the Conditional Use Permit that requires that the applicant obtain approval of a Building Permit in compliance with applicable sections of the California Building and Fire codes. The project proposes 18 parking spaces. While the proposed education facility will offer enrollment to K-12, due to the nature of the program, the appropriate parking standards are that of a small/elementary school. Given there will be a maximum of ten employees, a total of fifteen parking spaces would be required. The parking provided exceeds this required amount. Staggering of class hours would alleviate any traffic/parking congestion caused by parents/students entering and leaving the parking lot at the same time. All other project-related activities will be conducted indoors and will not adversely affect adjacent businesses or properties.

- 3. That the use will comply with the regulations and conditions specified in the code for such use.**

This finding is met because the granting of this Conditional Use Permit is conditioned to require the Applicant and Property Owner to fulfill its conditions of approval and to comply with all applicable regulations and standards specified in the Municipal Code, and the California Building, Fire and other applicable codes, for such use. These conditions will be enforced through building plan review, inspections prior to occupancy of the use and subsequent operation of the business. Furthermore, the conditions of this permit are approximately in proportion to the nature and extent of the impact created by the project in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the project. The project will comply with all regulations and conditions specified in the Zoning Code for uses established under PCC-11-063.

- 4. That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.**

The General Plan designates the site as Limited Industrial. This finding is met because the operation of a independent study program/small school, as approved by a Conditional Use Permit pursuant to the Eastlake II SPA Plan, is consistent with Limited Industrial (IL) permitted land uses. Thus, the proposed project is consistent with the Limited Industrial (IL) General Plan land use designation and will not adversely affect implementation of the General Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-11-063 as described above subject to the following conditions:

I. Prior to the approval by the City of Chula Vista for the use of the subject property in reliance upon this approval, the Applicant shall satisfy the following requirement:

PLANNING DIVISION

1. The Project Site shall be developed and maintained in accordance with the PCC-11-063 approved plans, as amended herein, which include site plans and floor plans on file in the Planning Division, the conditions contained herein, and the Zoning Ordinance (Title 19)
2. The Property Owner or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner's and Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Authorized Representative

Date

3. The Applicant shall apply for and obtain a sign permit for any required site/business identification signs from the Development Services Department in accordance with the Chula Vista Municipal Code Chapter 19.60.

BUILDING DIVISION

4. The Applicant shall apply for required building permits. Permits shall comply with applicable codes and requirements, including but not limited to the 2010 California Building Code (CBC), 2010 California Residential Code, 2010 Fire Code, 2010 California Mechanical Code, 2010 California Plumbing Code, 2010 California Electrical Code, 2010 California Green Building Standards and 2008

California Energy Code, as adopted and amended by the State of California and City of Chula Vista.

5. This project must be designed by an Architect or Engineer licensed by the State of California (California Business and Professional Code 5536.1, 6735).
6. Applicant shall be required to obtain a Certificate of Occupancy prior to occupancy of the suite.

FIRE DEPARTMENT

7. Submit and obtain approval of building plans that comply with the 2010 Fire Code and with the Fire Department conditions of approval listed below.

8. If there are any modifications to the sprinkler system, or the fire alarm system, a deferred submittal will be required, and submitted to the Fire Department for approval prior to any modification.

9. The building address shall be designed in accordance with the following criteria:

If the proposed buildings are located between 51-150 ft from the building to the face of the curb, the street address numbering shall be 10-inches in height with a 1 1/2-inch stroke.

10. Provide one fire extinguisher for every 3,000 square-feet, and 75 feet of travel in any direction.
11. Provide a Knox Vault in accordance with Chula Vista Fire Department Guidelines.

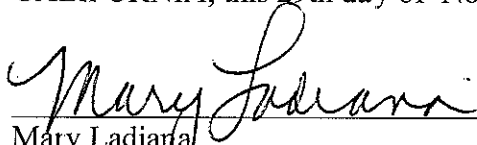
II. The following on-going conditions shall apply to the Project as long as it relies upon this approval.

1. Hours of operation shall be limited to Monday-Friday from 7:30 am to 4:30 pm. Expansion of hours of operation shall require approval of a modification to this Conditional Use Permit by the Zoning Administrator.
2. The maximum class size shall not exceed 20 students. There shall be a maximum of five classrooms for the facility, for a total of 100 students. Expansion and/or provision of additional classroom space within the facility shall require approval of a modification to this Conditional Use Permit by the Zoning Administrator.
3. The number of parking spaces available for exclusive use by the applicant shall not drop below the minimum code requirement of fifteen spaces.

4. The business shall be operated in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68.
5. This Conditional Use Permit authorizes only the use specified in the application for PCC-11-063. Any new use, modification or expansion of the use, or activities not authorized under this Conditional Use Permit, shall be subject to the review and approval of the Zoning Administrator.
6. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19.14.260 of the Chula Vista Municipal Code. Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.
7. Approval of this Conditional Use Permit shall be for a period of five years, with an expiration date of November 29, 2016. The applicant may request an extension of time from the Zoning Administrator. The Zoning Administrator shall review this conditional use permit for compliance with the conditions of approval, and shall determine, in consultation with the applicant, whether the project shall be modified from its original approval.
8. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. The applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.
9. Applicant and his/her successors in interest agree to defend, indemnify and hold harmless the City and its agents, officers and employees, from any claim, action or proceeding against the City, or its agents, officers or employees, to attack, set aside, void or annul any approval by the City, including approval by its Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this Conditional Use Permit, provided the City promptly notifies the Applicant of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.
10. Approval of this Project shall not waive compliance with all sections of Title 19 of the Municipal Code, and all other applicable City Ordinances in effect at the time of building permit issuance or the approval of this Conditional Use Permit.

November 29, 2011

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 29th day of November, 2011.



Mary Ladiana
Zoning Administrator

cc Steve Power, Principal Planner
Debi Gooding/881 Kuhn Drive Suites 105-106/Chula Vista, CA 91914

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